

KITTERY PORT AUTHORITY
August 6, 2015 Meeting Minutes
Council Chambers, Town Hall

Members Present: Kelly Philbrook, Steve Lawrence, Ray Grenier, Mark Drummond, Peter Whitman and Bruce Crawford

Members Absent: Ann Grinnell

Staff: Harbormaster Derek Jacobs

Meeting began at 6:00 p.m.

1. Pledge of Allegiance

2. Minutes: July 2, 2015

Mr. Whitman moved to approve the minutes of the July 2, 2015 meeting.

Mr. Grenier seconded

Carried: 6-0-0

3. Harbormaster's Report: Derek Jacobs

- **Budget & Revenues**

Derek commented that changed the fees around for transient slip rental to fix what had been wrong before. He added that Traip has brought in approximately \$7,000 of revenue. Ms. Philbrook commented that they had removed some things from the budget to trim some fat and wanted to make sure trash removal was added back in. Derek responded that trash removal is under "dumpster/trash removal". Mr. Whitman asked if they could receive the budget before the meeting so they could have more time to review it and Derek informed him that the budget just came out today and that the timing does not usually work out to get them in advance. He suggested they review the budget and send him and questions they have at a later date.

- **Projects Ongoing**

Derek commented that the frame on the bathroom door was rotten and they have received a new one which is being installed. He added that the skiff is at the yard currently being repowered and he is meeting with Bridges Electric to come up with a contract for the hoists.

- **Notices**

Derek commented on draft notices that he put in the packet. The draft letters will hopefully be approved by the Town Attorney. Mr. Crawford asked Derek if mooring holders were the only ones who were subject to the fee. Derek responded that all registrants pay the fee.

- **Databases**

Derek discussed the mooring database and the waitlist database that he provided to the board members. Both databases reflect those who have paid on time. The red moorings are those which are under investigation but they are not on the mooring database.

- Riparian Mooring Application – Nathaniel Hubbard, 10 Thaxter Lane, Kittery Point
Derek commented that he has reviewed the application and the lot has plenty of square footage. He has not driven out there yet but he plans on doing so. He noted that the mooring would have to go in safe harbor, maybe Chauncey Creek, and not in front of Mr. Hubbard's house. Ms. Philbrook commented that she would feel more comfortable voting on it if she knew where it was going. She added that if it needs to go into an area that already has a waitlist then he needs to be placed on the waitlist and cannot jump ahead of others. Mr. Grenier agreed.

4. Pier's Wharfs and Floats

Application by Gordon C. Blake, 17 Badgers Island West, Kittery, Map 1, Lot 25 in the Residential zone, to construct 2 4' x 16' floats, and reconfigure ramp on existing pier.

- Discussion
Ms. Philbrook stated that the floats were removed so the application is just to reconfigure the ramp on the existing pier. She has done a site walk and has received an email from the closest abutter. At the site walk she met with everyone involved and they are fine with changing the placement of the ramp to create a safer environment for people to use his property.

Ms. Philbrook opened the public hearing.

Mr. Milton Hall commented that it is required that a letter from the abutter be present and Ms. Philbrook responded that an email letter would suffice for now. However, a building permit will not be given until the letter is produced.

Ms. Philbrook closed the public hearing.

Mr. Whitman moved to approve the application to reconfigure the ramp on the existing pier. Mr. Lawrence seconded the motion.

Motion carried: 6-0-0

Ms. Philbrook stated that she was contact by the assistant CO about a repair replacement in-kind for Betty Crawford at 24 Wallingford Square to replace their existing pilings. She noted that she had no problem with the project but added that she had been inundated with phone calls from people all throughout Kittery who claim that their neighbor's docks are being worked on, which the Port Authority was not aware of. After speaking with CO, Ms. Philbrook commented that it seems as though repair/in-kind permits have been issued by the CO without notifying Port Authority. She added that Ms. Grinnell has spoken with the CO office and they were unaware that the process was supposed to go through Port Authority because it is not in the rules and regulations, however, she noted that this is a state law. Mr. Whitman asked who the request goes through first and Ms. Philbrook responded that it goes to the code office first. They are supposed to take a look at it and then send it to Port Authority. She added that it was decided that repair/in-kind permits did not need a formal vote for approval, however they were still supposed to notify the board and the changes were being documented by board members. It seems as though this project for the Betty Crawford has already been done. Mr. Whitman commented that procedures needed to be tightened up and volunteered to meet with the Code

Office to begin working on refining procedures. Ms. Philbrook responded that Ms. Grinnell has already done that but was not present at the meeting to discuss that.

Ms. Philbrook noted that there is a pending submerged lands application for the Wood Island Life Saving Station which could have significant impact on lobsterman and recreational fishermen. She had received an email from Andrew Pearson who had several issues with it. She added that if the board had any comments, they needed to pass them along by August 9th. Mr. Whitman asked whether or not the application would come before the board in the future and Ms. Philbrook responded that it is supposed to. A formal application should be made to the board. Mr. Grenier asked whether or not a site walk is required and Ms. Philbrook informed him that it is not required until they receive a formal application. Mr. Crawford asked who set the August 9th deadline. Ms. Philbrook noted that it was set by the Bureau of Submerged Lands and that anyone can submit commits, as she and her husband have already done so.

5. Public Segment

Milton Hall commented that the railway is set to go out to 45 to 65 feet below water. Ms. Philbrook commented that it is 64 feet. Mr. Hall continued by saying that the original one was out there but they did not need it out so far. He also commented that the board should have added into their motion regarding Mr. Blake's application that it cannot go forward without a formal letter.

Jim Forbes came to the podium to thank the board for their hard work and dedication.

Ms. Philbrook thanked Mr. Forbes for his help controlling the squid fishing crowd and helping to keep the squid ink down. She added that he had spent many late nights in the area.

6. Moorings

Ms. Philbrook commented that she met with the Town Attorney to get his opinion regarding to Isles of Shoals rules and regulations. Although she did not get a formal letter from the attorney, she noted that if she needs to insist on receiving one from him in order to put a close to this then she will. She went on to say that they should be thankful that the situation did not turn out to be worse than it was. Mr. Crawford asked how they could prevent the situation from happening again in the future. Mr. Lawrence responded that it will not be an issue this year because they have a moratorium on mooring issuance until December 31st but that they need to update the rules and regulations for next year. Mr. Crawford asked if the issue was because the old Harbormaster was issuing moorings and Ms. Philbrook responded that the Harbormaster has the ultimate say over moorings. She added that in other areas they have harbor management which controls moorings and fields. The board members discussed whether or not the rules and regulations authorize the Harbormaster to issue new moorings and how they could rewrite the regulations to give them the ultimate say over the process. Ms. Philbrook commented that because of a ruling made the court system called "home rule", town committees and boards (such as Port Authority) are allowed to be the managers of the harbor. Mr. Whitman asked who has the ultimate authority and what is the board allowed to do if they disagree with the Harbormaster's decision. He gave an example of a police station and the authority that the city manager has over them. He also commented that certain processes must be required to come before the board. Ms. Philbrook responded that it should be put in the rules and regulations

since it is not currently in there now. A workshop to deal with the issue is being scheduled for September.

Ms. Philbrook commented that she went through the mooring database as of May 30, 2015 and noticed that there are 25 moorings at the Isles of Shoals and five numbers are blank. Additionally, there are three people on the waitlist. Derek commented that Great Cove Boat Club is on the list for a mooring and they do not have one yet. Mr. Whitman noted that they need to come up with a harbor management plan before they authorize any more moorings, since that is why the moratorium is currently in place.

Bob Foye came to the podium to discuss some photographs that he and his son took to illustrate the congestion at the Isles of Shoals. Since he phone is not currently working he could not produce the pictures but he wanted to let them know that he had evidence of the congestion. Mr. Foye mentioned that the whole mooring situation is because Tom Smith wanted additional moorings which caused a change of the language in the bylaws which had not been changed since 1972. Derek asked Mr. Foye questions regarding the crowding at the Isles of Shoals and informed him that he would be patrolling that area the following weekend to look out for bad behavior. Mr. Foye also mentioned that it would be nice if Great Cove Yacht Club could get a mooring since they are the only club without one. Ms. Philbrook commented that the mooring application form never used to have Isles of Shoals listed on it until, two Harbormasters ago, it was put back on with the knowledge that whoever wanted an Isles of Shoals mooring would never get one anyway.

Mr. Hall approached the podium and commented that the process used to be that when someone gave up a mooring, someone else had permission to take it, even if they were not a landowner.

7. Board Members New and Old Business/Action List

Mr. Whitman commented on his research of onlinemoorings.com. He stated that he was impressed by their quality of service and disclosed that he might be applying for a job with them. He stated that if he does accept a job with the company, he will recuse himself from any vote associated with them¹. Ms. Philbrook stated that Mr. Whitman wanted to make a motion to allow the Harbormaster to enter into a memorandum of understanding of online moorings. This affects the mooring fees so new language will need to be drafted. Ms. Philbrook suggested that they discuss the language and schedule a public hearing on the matter. Mr. Whitman added that he would work with Derek to create the language. He also commented that the company has a letter of understanding, not a contract, so they can withdraw from the program at any time. Ms. Philbrook asked if all mooring holders would have to use the program or if they could allow only the interested parties to use it. The board agreed that it would have to be all or nothing in order for the system to be effective. Ms. Philbrook also asked whether or not Derek would have enough work to do during the winter months if the online program alleviated a large portion of his job duties. Mr. Grenier suggested that he spend more time performing maintenance on boats and Derek added that he had other projects in the budget that he could work on.

¹ See letter from Mr. Whitman to Ms. Philbrook on Page 6

Mr. Crawford asked if Mr. Whitman had been in touch with any other communities which had used the program. Mr. Whitman stated that every community that he asked about the program said that they could not live without it. He added that there is a \$6.00 fee that would be added to each mooring cost which would go straight to onlinemoorings.com. Mr. Crawford asked whether or not Derek would need a more powerful computer to run the software and Derek responded that it's an online program so that would not be necessary. He added that having all of their information in this cloud-based system would also be an effective back-up method in case anything were to happen to their computer. Mr. Whitman encouraged the board members to go to onlinemoorings.com and explore their website.

Ms. Philbrook commented that not much had changed at Pepperrell Cove except more busy nights with lots of squid. She added that putting up the plastic chain on Pepperrell pier has helped significantly and that the last couple of nights both the amount of fisherman and squid have decreased.

Ms. Philbrook noted that the best time to make the changes to the rules and regulations is in the fall so that the changes are made prior to January. She suggested that the board members start to review them. Mr. Grenier commented that they should change the structure of the mooring fees. Derek stated the he would like to investigate the business on the new transient facility; whether they charge for a day pass or an hourly block. He noted that there is a lot of use of the facility but that it is mostly short term. Mr. Lawrence encouraged the board to review the fees so that they will be all set for January 1st.

Mr. Drummond asked if there had been any advertising on transient floats. Derek responded that there was not much besides word of mouth and a small article in Boats, Homes & Harbors magazine. He added that transient moorings have been in high demand and that people tend to choose moorings over docks.

Mr. Whitman commented that he reviewed the regulations and created an updated assignment of moorings waitlist form that is intended to mirror the image of the regulations. He stated that if the board approves the form, they can start using it right away. Ms. Philbrook responded that she had received the draft form in her email but that not everyone on the board receives email so they will need time to review it. Mr. Whitman asked about getting Derek a laptop and Ms. Philbrook commented that as soon as the most recent credit card bill is paid off they will get him one.

Mr. Crawford asked if there was any patrol on Badger's Island. Derek responded that he was up there on Saturday and had a boat adrift up there yesterday.

Mr. Whitman commented that there was an incident during the storm when the fire department came down and used the boat. He added that they should have better procedures in place so they are assured that the person who comes down to use the boat has been properly trained. Derek noted that he had put together an SOP regarding the boat and had not gotten together with the fire department to perform the training yet. He added that he had put together an emergency procedure list with contact information so that if the boat leaves the dock for any reason, one of the people on the list would be contacted. Ms. Philbrook asked Derek to send the SOP to the board.

Ms. Philbrook added that the ramp at Frisbee's Pier had been replaced. She commented that the people who worked on it did an excellent job and saved a lot of money doing so. She also mentioned that the Town of Kittery is only listed as having three moorings but they definitely have more than that. She would like Derek to look into exactly how many they have and figure out if they are all necessary for the Town to have.

Mr. Lawrence commented that he has been trying since June to obtain a defibrillator for the Harbormaster, which is required by law, and that no one would listen to him. Derek said that he would look into it.

8. Adjourn

Motion to adjourn was made by Ms. Philbrook and seconded by Mr. Grenier and Mr. Whitman. Meeting adjourned at 7:16 p.m.

ATTACHMENT

August 5, 2015

Kelly Philbrook, Chair
Kittery Port Authority
200 Rogers Road
Kittery, Maine 03904

Dear Kelly,

An issue under discussion with the Port Authority is whether to use OnlineMoorings.com to manage our moorings and related lists. In conducting due-diligence, I have become aware that OnlineMoorings.com is looking for a sales representative.

The OnlineMoorings.com database management system is impressive, adding enhanced management systems and controls while freeing up staff for other duties. All this is done at minimal or no cost to the Authority. I have come away from my due-diligence impressed with the product and may pursue professional opportunities with them.

As such, I will recuse myself from any vote regarding agreements with OnlineMoorings.com. I do expect to continue to be involved in discussions and votes that are procedural in nature.

Thank you for your understanding in this matter. Please contact me with any questions or concerns. Also please include this letter in the Authority minutes so that it is part of the record.

Sincerely,



Peter A. Whitman, Member
Kittery Port Authority

cc:
Kittery Town Manager
Kittery Town Clerk ✓